

**§ 762.123 Insurance and farm inspection requirements.**

(a) *Insurance.* (1) Lenders must require borrowers to maintain adequate property, public liability, and crop insurance to protect the lender and Government's interests.

(2) By loan closing, applicants must either:

(i) Obtain at least the catastrophic risk protection (CAT) level of crop insurance coverage, if available, for each crop of economic significance, as defined by part 402 of this title, or

(ii) Waive eligibility for emergency crop loss assistance in connection with the uninsured crop. EM loan assistance under part 764 of this chapter is not considered emergency crop loss assistance for purposes of this waiver and execution of the waiver does not render the borrower ineligible for EM loans.

(3) Applicants must purchase flood insurance if buildings are or will be located in a special flood hazard area as defined by FEMA flood hazard area maps and if flood insurance is available.

(4) Insurance, including crop insurance, must be obtained as required by the lender or the Agency based on the strengths and weaknesses of the loan.

(b) *Farm inspections.* Before submitting an application the lender must make an inspection of the farm to assess the suitability of the farm and to determine any development that is needed to make it a suitable farm.

[64 FR 7378, Feb. 12, 1999, as amended at 70 FR 56107, Sept. 26, 2005; 72 FR 63297, Nov. 8, 2007]

**§ 762.124 Interest rates, terms, charges, and fees.**

(a) *Interest rates.* (1) The interest rate on a guaranteed loan or line of credit may be fixed or variable as agreed upon between the borrower and the lender. The lender may charge different rates on the guaranteed and the non-guaranteed portions of the note. The guaranteed portion may be fixed while the unguaranteed portion may be variable, or vice versa. If both portions are variable, different bases may be used.

(2) If a variable rate is used, it must be tied to an index or rate specifically agreed to between the lender and borrower in the loan instruments and the

rate adjustments must be in accordance with normal practices of the lender for unguaranteed loans. Upon request, the lender must provide the Agency with copies of its written rate adjustment practices.

(3) At the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the unguaranteed portion of a fixed or variable rate OL or FO loan may not exceed the following, as applicable:

(i) For lenders using risk-based pricing practices, the risk tier at least one tier lower (representing lower risk) than that borrower would receive without a guarantee. The lender must provide the Agency with copies of its written pricing practices, upon request.

(ii) For lenders not using risk-based pricing practices, for variable rate loans or fixed rate loans with rates fixed for less than five years, 650 basis points (6.5 percentage points) above the 3-month LIBOR.

(iii) For lenders not using risk-based pricing practices, for loans with rates fixed for five or more years, 550 basis points (5.5 percentage points) above the 5-year Treasury note rate.

(4) In the event the 3-month LIBOR is below 2 percent, the maximum rates specified in paragraph (a)(3) of this section do not apply. In that case, at the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the unguaranteed portion of an OL or FO loan may not exceed 750 basis points above the 3-month LIBOR for variable rate loans and 650 basis points above the 5-year Treasury rate for fixed rate loans.

(5) Interest must be charged only on the actual amount of funds advanced and for the actual time the funds are outstanding. Interest on protective advances made by the lender to protect the security will be charged at the note rate but limited to paragraph (a)(3) of this section.

(6) The lender and borrower may collectively obtain a temporary reduction in the interest rate through the interest assistance program in accordance with § 762.150.

(b) *OL terms.* (1) Loan funds or advances on a line of credit used to pay